IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 4320 of 2005

Between:

Karyampudi Venkateswarlu S/o. Kotinagulu, Sarpanch,
R/o. Valaparla Village, Martor Mandal, Prakasam District.

..... PETITIONER

AND

1 The Principle Secretary, Panchayat Raj and Rural Development,
Government of A.P. Secretariat Buildings, Hyderabad.
2 The District Panchayat Officer, Ongole, Prakasam District.
3 The District Collector, Prakasam District.
4 Revenue Divisional Officer, Ongole, Prakasam District.
5 Sri Shaik Khalil Basha S/o. Abdul Rahzak, Upa Sarpanch,
R/o. Valaparla Village, Martor Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of WRIT OF MANDAMUS declare the action of 1st Respondent and 2nd Respondent in with drawing Cheque Power of the Sarpanch i.e, Petitioner vide Proceedings in R.C.No. 1433/04, (PTS) A1 dt. 21-2-2005 and Government Memo No. 1910/PTS.II-A/2005-1 dt. 14-2-2005 of Panchayat Raj and Rural Development Department is illegal, arbitrary and un-constitutional and consequently set aside order passed by the Respondent No.1 and Respondent No.2 Vide Proceedings in R.C.No. 1433/04 (PTS) A1 dt. 21-2-2005 of Panchayat Raj and Rural Development Department.

Counsel for the Petitioner :MR.V.RAGHUNATH

Counsel for the Respondent Nos.1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is Sarpanch of Valaparla Village, Martor Mandal, Prakasam District elected in the year 2001. Proceedings were initiated against him under the provisions of the A.P. Panchayat Raj Act (for short 'the Act') as well as the Rules framed in G.O.Ms.No.30, Panchayat Raj, dated 20.01.1995. Initially, a show cause notice, dated 15.09.2004, was issued directing him to explain as to why the cheque powers conferred upon him shall not be withdrawn. As an interim measure, the cheque powers were also suspended. Petitioner filed an explanation, dated 28.09.2004. On a consideration of the same, and after conducting enquiry, the District Panchayat Officer, the 2nd respondent, passed an order, dated 11.01.2005, restoring the cheque powers to the petitioner.

The 5th respondent, Upa-Sarpanch of the village, preferred an appeal before the 1st respondent, against the order dated 11.01.2005, passed by the 2nd respondent. The 1st respondent, in turn, passed an interim order dated 14.02.2005, suspending the order dated 11.01.2005, and thereby disabling the petitioner from exercising the cheque powers. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Smt. Kavitha Gottipati, learned counsel for the 5th respondent.

The 2nd respondent initiated proceedings against the petitioner, on certain allegations made against him as to the spending of Gram Panchayat funds. A show cause notice, dated 15.09.2004, was issued, and pending enquiry into the matter,

petitioner was prohibited from drawing the funds. Petitioner submitted his explanation, and on consideration of the same, the 2nd respondent passed an order, dated 11.01.2005, dropping the proceedings against the petitioner and restoring his cheque powers.

The 5th respondent preferred an appeal before the 1st respondent, against the order dated 11.01.2005. It is in that appeal that the 1st respondent passed an interim order. It reads as under:

> "A copy of the appeal petition cited together with its enclosures filed by sri Shaik Khalil Basha, Upa-Sarpanch, Valaparla Gram Panchayat in Martur (M), Prakasam District is sent herewith to the Collector (PW), Prakasam District. He is requested to get the matter re-examined by the Revenue Divisional Officer, concerned and send a detailed point wise report on the contentions made in the enclosed Appeal petition along with all connected records to the Government immediately.
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> 2. The order of the District Panchayat Officer, Prakasam, issued in proceedings Roc.No.1433/2004 (Pts) A1, dated 11.01.2005 is hereby stayed until further orders"

A perusal of the order discloses that the District Collector was directed to get the entire matter re-examined, by the Revenue Divisional Officer and send a detailed point-wise report. The order dated 11.01.2005, passed by the 2nd respondent, dropping the proceedings against the petitioner, was stayed. On the face of it, the course adopted by the 1st respondent, as reflected in the impugned order, is impermissible in law. The 1st respondent was dealing with an order passed by the 2nd respondent in whom, the powers are conferred by law. It was not open to the 1st respondent to get the matter examined by the Revenue Divisional Officer, or for that matter, the District Collector. The Revenue Divisional Officer is not assigned any role under the Act, much less, in the adjudication of disputes. Once the 2nd respondent had called for the record and restored the powers of an elected Sarpanch, after verification of the same, strong and cogent reasons ought to have been cited, to suspend the cheque powers. It is not a question of permitting the petitioner, to operate the funds, but to enable the Gram Panchayat to function. If the

petitioner had resorted to any irregularities, the same can certainly be dealt with, by initiating proceedings under the Act. Once the District Panchayat Officer, who is the primary authority under the Act had examined the record, and was satisfied that the petitioner deserves to be restored the cheque powers, there does not exist any justification to prevent the petitioner from operating the funds, that too at the instance of the 5th respondent.

Viewed from any angle, this Court does not find any basis for the impugned order. The same is accordingly set aside and the writ petition is allowed. It is, however, directed that the 1st respondent shall dispose of the appeal at the earliest. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 09-03-2005

Note: Office to issue c.c.

in three days.

(B/o.)

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To

1 The Principle Secretary, Panchayat Raj and Rural Development, Government of A.P. Secretariat Buildings, Hyderabad.

2 The District Panchayat Officer, Ongole, Prakasam District.

3 The District Collector, Prakasam District.

4 The Revenue Divisional Officer, Ongole, Prakasam District.

5 Two C.Cs. to the Government Pleader for Panchayat Raj, High Court of A.P., Hyderabad. (O.U.T.)

6 Two C.D. copies.